

REMARKS

In the Office Action mailed March 18, 2009, the Office noted that claims 18-23 and 26-35 were pending and rejected claims 18-23 and 26-35. No claims have been amended, claim 34 has been canceled, and, thus, in view of the foregoing, claims 18-23, 26-33 and 35 remain pending for reconsideration which is requested. No new matter has been added. The Office's rejections and objections are traversed below.

OBJECTION TO THE SPECIFICATION

The disclosure stands objected to for informalities. In particular, the Office states that the Specification contains references to cancelled claims.

The Applicants have amended the Specification in compliance with the comments of the Office.

Withdrawal of the objection is respectfully requested.

REJECTIONS under 35 U.S.C. § 101

Claim 34 stands rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. In particular, the Office asserts that the claim is to software *per se*.

The Applicants have cancelled claim 34.

Withdrawal of the rejection is respectfully requested.

DOUBLE PATENTING

Claims 18 and 19 are provisionally rejected on grounds of nonstatutory obviousness-type double patenting as being unpatentable over co-pending Application No. 11/790,745.

MPEP § 804(I)(B)(1) states

If a "provisional" nonstatutory obviousness-type double patenting (ODP) rejection is the only rejection remaining in the earlier filed of the two pending applications, while the later-filed application is rejectable on other grounds, the examiner should withdraw that rejection and permit the earlier-filed application to issue as a patent without a terminal disclaimer. If the ODP rejection is the only rejection remaining in the later-filed application, while the earlier-filed application is rejectable on other grounds, a terminal disclaimer must be required in the later-filed application before the rejection can be withdrawn.

The Applicants submit that the remaining rejections in this application have been traversed below. As the ODP rejection is the only rejection remaining in this application and (ii) this application is the earlier filed application than the co-pending application No. 11/790,745, the ODP rejection with respect to this application should be withdrawn.

REJECTIONS under 35 U.S.C. § 112

Claims 27-29 and 31 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention.

The Office asserts that it is unclear what "verifying

said record information recording area" means, verifying what aspect of said record information recording area?

However, in the technical field of the present invention (i.e. the technical field of the recording medium such as CD, UVO and Blu-ray Disc), the meaning of "verifying" is technically well known. More specifically, it is technically well known that the verifying process is (i) to read the record information which is recorded in the record information recording area, (ii) to measure the reproduction quality (for example, error rate and the like) of the read record information, (iii) to judge, on the basis of the measured reproduction quality, whether or not the record information is correctly recorded.

Thus, the meaning of the term "verifying" is clear to those of ordinary skill in the art.

With regards to claim 28, the preamble of the claim recite "An information recording apparatus for recording **record information** onto an information recording medium comprising." (Emphasis added). Thus, the Applicants submit there is antecedent basis for "the record information" later in the claim.

Withdrawal of the rejections is respectfully requested.

REJECTIONS under 35 U.S.C. § 103

Claims 18-23 and 27-35 stand rejected under 35 U.S.C. § 103(a) as being obvious over Park, U.S. Patent Publication No. 2004/0174793 in view of Mitsuda, U.S. Patent No. 6,956,798. The

Applicants respectfully disagree and traverse the rejection with an argument.

On page 6 of the Office Action, it is acknowledged that Park does not explicitly disclose "a reliability information recording area for recording therein a plurality of reliability information, each of which indicates reliability of whether or not respective one of the plurality of types of management information is correctly updated," as in claim 18, but asserted that Mitsuda, Fig. 2, element 13 and col. 6, lines 12-27 does.

However, to make this assertion, the Office would have to interpret the "update flag" disclosed in Mitsuda as corresponding to the "reliability information" of the claim.

However, the "update flag" disclosed in Mitsuda is a flag which indicates whether or not the previous writing in the management data region 11 has been terminated normally. In other words, the "update flag" disclosed in Mitsuda is a flag which indicates whether or not the update information has been recorded normally. This means that the "update flag" disclosed in Mitsuda merely indicates update condition of *the entire management data region 11*. Namely, the "update flag" disclosed in Mitsuda does not indicate the update condition of *each of the plurality of management information* (for example, FAT, UDF, and the like) recorded in the management data region 11, respectively.

Additionally, according to claim 18, each of the plurality of reliability information indicates reliability of

whether or not *respective one of the plurality of types of management information is correctly updated*. In other words, according to claim 18, *the update condition of each of the plurality of management information can be indicated by the plurality of reliability information*.

Further, Mitsuda merely discloses that *only one "update flag" which is used for the entire management data region 11 is recorded on the recording medium*. This disclosure corresponds to the comparison example of the present invention (see page 56, line 11 to page 57, line 18 (i.e. ¶¶ 0109 and 0110) of the Description and Fig. 6 of the present application).

Further, in claim 18, *the plurality of reliability information each of which is NOT used for the entire management information recording area BUT used for the corresponding one management information, is recorded on the recording medium*. For example, one reliability information which indicates the update condition of the SBM (Space Bit Map) and another reliability information which indicates the DFL (Defect List) are recorded on the recording medium (see Fig. 4 of the present application).

Thus, Mitsuda fails to disclose *"a reliability information recording area for recording therein a plurality of reliability information, each of which indicates reliability of whether or not respective one of the plurality of types of management information is correctly updated,"* as in claim 18.

Further, the combination of Park and Mitsuda fails to

disclose such a feature.

For at least the reasons discussed above, Park and Mitsuda, taken separately or in combination, fail to render obvious the features of claim 18, 28 and 32 and the claims dependent therefrom.

Withdrawal of the rejections is respectfully requested.

SUMMARY

It is submitted that the claims satisfy the requirements of 35 U.S.C. §§ 101, 112 and 103. It is also submitted that claims 18-23, 26-33 and 35 continue to be allowable. It is further submitted that the claims are not taught, disclosed or suggested by the prior art. The claims are therefore in a condition suitable for allowance. An early Notice of Allowance is requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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